

TIPS FOR A SUCCESSFUL HEARING

For many, the thought of going to a grievance hearing can be intimidating. Recognizing this, the Department offers training which provides information on how to best prepare for the grievance hearing. The training is available to state employees who wish to learn how to present a case before a hearing officer.

The Critical Time is Before the Hearing

After the grievance has been qualified for a hearing, immediately begin to organize. Learn what the witnesses will say, review all documents, and focus on your opponent's case as well as your own. Ask for a prehearing conference.

- At the prehearing conference, which can be by telephone, make sure that everyone agrees on what issues were qualified for the hearing, request the hearing officer to issue orders for the appearance of witnesses and for documents, and set the date, time, and place for the hearing.
- Prepare for the hearing by organizing your facts and events, developing appropriate exhibits, and preparing witnesses; an outline should be developed.

The hearing will follow an established order. In all grievances involving discipline or termination the agency goes first. For all other grievances, the employee goes first. Whoever goes first, is first for all actions from the opening statement, through the presentation of the evidence, to the closing statement.

Opening Statements are the Road Maps for the Hearing

The purpose of the opening statement is to paint the picture for the hearing officer of your side of the story. It will be the road map that the hearing officer will use to follow the evidence. Without a clear

opening statement, the hearing officer may get lost and not pick up on important evidence from a witness. A good opening statement should:

- summarize the facts that will be presented through witnesses and documents;
- tell why your view of the facts is more reasonable;
- point out the holes in the other's facts; and
- state what you want the hearing officer to do and why the outcome requested is fair.

Opening statements are not evidence. Therefore, you must make sure that the facts actually come into evidence through the words of your witnesses or documents.

The Evidence

After the opening statements, witnesses are called and evidence is presented. The advanced preparation of witnesses is also important:

- plan the order of the witnesses carefully, place strong witnesses first or last because their statements will be most memorable;
- prepare an outline or list of the questions to ask witnesses;
- make sure the witnesses are able to tell the who, what, where, when, how and why of the story; and
- have witnesses introduce the documents.

Although the rules of evidence do not apply, some evidence will be more persuasive than others. The fact that evidence is received by the hearing officer does not mean that it will be given equal weight with other information. For example, an eyewitness is better than a person who only heard of the information from the eyewitness, or a witness is better than the witness' written

statement. A witness' opinion or conclusion is not as good as an account of the facts. The hearing officer will always be weighing the evidence to determine the more reliable and trustworthy evidence.

Closing Statements Should Leave No Holes

When the examination of the witnesses is over, closing statements are made. Closing statements put everything in place; they bring all the points of evidence together into a simple understandable picture. It is important to prepare the elements of the opening statement before the hearing and then adapt it according to the evidence at the hearing. Elements that help make a successful closing statement include:

- telling the hearing officer the inferences that can be reasonably drawn from the evidence;
- emphasizing the positive points of your case and the weaknesses of the other's case; and
- explaining why the weaknesses of your case are not significant.

A closing statement need not be long, but it must tie everything together.

The Painting Begins with The First Stroke

Throughout the hearing, from your entry into the room until the time you walk to your car, make sure that your demeanor reflects courtesy and respect for the other side and the process. It is key to demonstrate that you are reasonable and fair. Your attitude forms the background long before the hearing begins.

The hearing officer can make a mistake; if that happens ask respectfully for the mistake to be corrected. If the error is not corrected, contact the Department for a ruling within five days of receipt of the hearing decision. ■